

Officer History

Officer Name: Perez, Alex

Tax ID: 947336

Sex: M

Shield: 5338

Race: Hispanic

Rank: DT3

Command: 331

DOB: [REDACTED]

Appt Date: 07/08/2008

Age: [REDACTED]

Tenure: 12

CCRB #	Report Date	Incident Date	Allegation	Disposition	NYPD Disposition	NYPD Penalty	Command
[REDACTED]			[REDACTED]	[REDACTED]			025
201406818	07/08/2014	06/06/2014	OMN - Failure to prepare a memo book entry	Other Misconduct	Formalized Training	Formalized Training	025
201407529	07/25/2014	07/25/2014	OMN - Failure to prepare a memo book entry	Other Misconduct	No Disciplinary Action-DUP		025
[REDACTED]			[REDACTED]	[REDACTED]			[REDACTED]
[REDACTED]			[REDACTED]	[REDACTED]			[REDACTED]
201602258	03/17/2016	03/11/2015	Abuse - Stop	Unsubstantiated			025
	03/17/2016	03/11/2015	Abuse - Search (of person)	Unsubstantiated			025
201602326	03/17/2016	07/03/2015	Abuse - Stop	Unsubstantiated			025
[REDACTED]			[REDACTED]	[REDACTED]			[REDACTED]
Total Charges = 9					Total Cases = 7		

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Buhner	Team: Squad #16	CCRB Case #: 201406818	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Fri, 06/06/2014 4:50 PM	Location of Incident: [REDACTED]	Precinct: 25	18 Mo. SOL 12/06/2015	EO SOL 12/6/2015	
Date/Time CV Reported Tue, 07/08/2014 7:08 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Tue, 07/08/2014 7:08 PM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Comp/Victim	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT [REDACTED]	[REDACTED]	[REDACTED]	025 PCT
2. POM Alex Perez	02964	947336	025 PCT
3. POM [REDACTED]	[REDACTED]	[REDACTED]	025 PCT
4. POM [REDACTED]	[REDACTED]	[REDACTED]	025 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM [REDACTED]	[REDACTED]	[REDACTED]	MAN CT
2. POM [REDACTED]	[REDACTED]	[REDACTED]	025 PCT
3. POM [REDACTED]	[REDACTED]	[REDACTED]	025 PCT
4. POM [REDACTED]	[REDACTED]	[REDACTED]	025 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT [REDACTED]	Abuse of Authority: Sgt. [REDACTED] supervised the stop [REDACTED]	A . Substantiated
B . SGT [REDACTED]	Abuse of Authority: Sgt. [REDACTED] supervised the search [REDACTED]	B . Substantiated
C . SGT [REDACTED]	Abuse of Authority: Sgt. [REDACTED] supervised the frisk [REDACTED]	C . Substantiated
D . SGT [REDACTED]	Other: Sgt. [REDACTED] failed to prepare a memo book entry as required.	D . Other Misconduct
E . POM [REDACTED]	Other: PO [REDACTED] failed to prepare a memo book entry as required.	E . Other Misconduct
F . POM Alex Perez	Other: PO Alex Perez failed to prepare a memo book entry as required.	F . Other Misconduct
G . POM [REDACTED]	Other: PO [REDACTED] failed to prepare a memo book entry as required.	G . Other Misconduct
H . SGT [REDACTED]	Other: Sgt. [REDACTED] failed to ensure that a stop and frisk report was prepared as required.	H . Other Misconduct

Case Summary

On June 6, 2014, at approximately 4:50 p.m. in the vicinity of [REDACTED] between E. 125th Street and E. 126th Street in Manhattan, [REDACTED] was walking on foot when he observed an unmarked four door black Chevrolet pull up beside him. Four officers dressed in plainclothes exited the vehicle and approached Mr. [REDACTED]. Under the supervision of Sgt. [REDACTED] the officers allegedly stopped (**Allegation A**), searched, (**Allegation B**), and frisked Mr. [REDACTED] (**Allegation C**). After the search was completed and nothing illegal was recovered, the officers returned to their vehicle without arresting or summoning Mr. [REDACTED] and left the scene. He was able to obtain their vehicle's license plate number, which he provided during his sworn statement.

This case was originally assigned to Inv. Arthur Albano, but was reassigned to the undersigned investigator on August 27, 2014.

Mediation and Criminal Histories

- On May 26, 2015, a Notice of Claim inquiry was submitted to the New York City Officer of the Comptroller, and the result will be added to the case file upon its return (encl. 7I)
- Mr. [REDACTED] was offered mediation but refused, stating that he wanted the officers disciplined.
- A search of the NYPD Booking and Arraignments System was negative for any prior arrests for Mr. [REDACTED]

Civilian and Officer CCRB Histories

- Sgt. [REDACTED] [REDACTED] has been a member of the NYPD for 9 years, and has six prior CCRB cases involving ten allegations. A stop allegation in case #201407529 was substantiated, and the Board recommended formalized training. However, the NYPD disposition is still pending. Additionally, he has a second prior stop allegation, as well as multiple failures to prepare memo book entries, which indicate a pattern applicable to this case (encl. 2A).
- PO Alex Perez has been a member of the NYPD for 6 years, and has two prior CCRB cases involving two allegations, none of which have been substantiated. He was cited for other misconduct for a failure to prepare a memo book entry. There is no other relevant fact pattern in his CCRB history (encl. 2D).
- PO [REDACTED] [REDACTED] has been a member of the NYPD for ten years, and has two prior CCRB cases involving five allegations with two substantiated allegations and two other misconduct recommendations, one of which was for failure to prepare a memo book. The two substantiated allegations involve the search of a person and a stop, and the Board recommended formalized training for both. However, the NYPD dispositions for both are still pending. These allegations are indicative of a pattern applicable to this case, as is the failure to prepare a memo book entry (encl. 2C).
- PO [REDACTED] [REDACTED] has been a member of the NYPD for 6 years, and has six prior CCRB cases involving ten allegations, none of which were substantiated. He has two prior stop allegations, as well as other misconduct recommendations for multiple failing to prepare memo book entries, which indicate a pattern applicable to this case (encl. 2B).
- Mr. [REDACTED] has seven previous CCRB cases since 1996, including two force allegations, four abuse of authority allegations, and four discourtesy allegations. None of his previous allegations were substantiated (encl. 2E-2F).

Civilian Statements

Complainant/Victim: [REDACTED] [REDACTED] (encl. 3A-3I)

- Mr. [REDACTED] is a 220-pound black man with black hair and black eyes. He was 67 years old at the time of the incident.
- On the date of the incident, Mr. [REDACTED] was wearing a light jacket, jeans, and red sneakers. His clothes were loose fitting, and he had a key chain containing approximately 20 keys in his pocket. He was walking with his hands by his side, and did not enter his pockets at any point prior to being stopped.
- Mr. [REDACTED] was walking in the vicinity of [REDACTED] between E. 125th and E. 126th Streets in Manhattan when he was approached by six officers (the investigation determined it was four officers) in plainclothes, who were all yelling various directives at him.
- PO1 asked Mr. [REDACTED] if he had anything on him that he was not supposed to have. Mr. [REDACTED] responded that he did not. PO1 then grabbed Mr. [REDACTED] keys from the outside of his left jacket pocket and began pulling at them. Mr. [REDACTED] attempted to pull his pocket away, but PO1 entered the pocket and grabbed his keys, attempting to remove them. However, due to their large size, the keys did not come out of his pocket.
- Mr. [REDACTED] then reached into his pocket to remove the keys, and the officers shouted at him to keep his hands where they could see them. As a result, Mr. [REDACTED] raised his hands above his head, and PO1 successfully removed the keys from his pocket. PO1 then asked him what he was doing with so many keys, and Mr. [REDACTED] did not respond. PO1 also asked him where he was going and what he was doing in the area, but Mr. [REDACTED] remained silent.
- Mr. [REDACTED] then attempted to grab the keys from PO1, at which point the other officers instructed him to put his hands where they could see them, and Mr. [REDACTED] again placed his hands above his head. At this point, PO2 and PO6 then began to pat the outside of Mr. [REDACTED] pockets, as well as down both of his legs. Nothing was recovered from Mr. [REDACTED].
- PO1 returned Mr. [REDACTED] his keys, and PO4, identified via investigation as Sgt. [REDACTED] [REDACTED] said something to the officers and they returned to their vehicle and left. Mr. [REDACTED] noted that he believed the license plate of the car the officers were in was #6XXE661, and described it as a Chevrolet sedan.
- Mr. [REDACTED] described PO1 as a 5'8" tall white man with a stocky build and white hair; PO2 as a 6' tall, 220 pound Hispanic man with a medium to stocky build with brown hair. PO3-PO5 were described as white men, and PO6 was described as a 5'8" tall, 160 pound black man with black hair and black eyes.
- Sgt. [REDACTED] is a 5'8" tall, 185 pound black man with brown eyes and black hair, which matches the description for PO6. PO [REDACTED] is a 6'1" tall, 250 pound Hispanic man with brown hair.

NYPD Statements

Subject Officer: SGT. [REDACTED] [REDACTED] (encl. 4A-4F)

- Sgt. [REDACTED] was interviewed at the CCRB on February 11, 2015.
- On the date of the incident, he was the SNEU sergeant, and his partners were PO Perez, PO [REDACTED] and PO [REDACTED]. He was dressed in plainclothes, and assigned to an unmarked vehicle, which he believed to be a black Crown Victoria. He did not note the RMP number in his memo book.

- Sgt. [REDACTED] did not recall this incident. He was shown a photo of Mr. [REDACTED] and he did not recognize him, nor did it refresh his memory of the incident.
- Sgt. [REDACTED] stated that he was patrolling on Lexington Avenue, but could not be more specific besides stating that he was in the confines of the 25th Precinct. He could not remember specifically if he was in the vicinity of [REDACTED] between E. 125th and E. 126th Street on the incident date.
- Sgt. [REDACTED] stated that he was with a “whole team of officers” in the car, including PO Perez, PO [REDACTED] and PO [REDACTED]
- He did not remember stopping any individuals that he did not arrest. Sgt. [REDACTED] did not remember any other officers aside from those he listed being present with him in the vehicle; however, he stated that he was probably not with PO Perez, PO [REDACTED] and PO [REDACTED] for the duration of his tour, because the arresting officers would have likely returned to the stationhouse to process the arrests while he continued to patrol.

Subject Officer: PO ALEX PEREZ (encl. 4G-4K)

- PO Perez was interviewed at the CCRB on February 11, 2015.
- On June 6, 2014, PO Perez’s assignment was SNEU, and he was partnered with PO [REDACTED] PO [REDACTED] and Sgt. [REDACTED]. He was dressed in plainclothes, and was assigned to an unmarked vehicle, a black Crown Victoria, RMP# 765.
- PO Perez did not recall this incident. He was shown a photo of Mr. [REDACTED] but he did not recognize him nor did it refresh his memory. He was provided with a brief summary of the incident, but he still did not recall the incident.
- PO Perez stated that it was possible that during his tour he was in the vicinity of [REDACTED] [REDACTED] and E. 125th - E. 126th Streets. PO Perez did not switch partners or work with any other officers during his tour, and he did not interact with any civilians who were not arrested.
- PO Perez could not recall if there were any other arrests previous to the time of the incident, but he mentioned that a second SNEU car was also on patrol; however, he did not know which officers were assigned to the vehicle, and could not provide any description of the vehicle, aside from that it would have been a sedan. Ultimately, the SNEU team was comprised of seven officers, two cars, and one sergeant, Sgt. [REDACTED]. PO Perez stated that it was possible that Sgt. [REDACTED] exited their vehicle and rode in the other SNEU vehicle, and stated he does so frequently.

Subject Officer: PO [REDACTED] [REDACTED] (encl. 4L-4R)

- PO [REDACTED] was interviewed at the CCRB on March 7, 2015.
- On June 6, 2014, PO [REDACTED] was part of the SNEU team, and he worked with Sgt. [REDACTED] PO [REDACTED] and PO Perez. He was dressed in plainclothes and assigned to an unmarked four door sedan, RMP #765.
- PO [REDACTED] did not recall the incident. A photo was presented to him of Mr. [REDACTED] but he did not recognize him. A brief synopsis was provided to PO [REDACTED] but this did not refresh his memory. He did not recall stopping and searching any individuals that day who were not arrested or issued a summons.
- PO [REDACTED] did not recall being within the vicinity of [REDACTED] between E. 125th and E. 126th Street on that date, but stated that they do work those areas and are areas of high crime. He did not recall anyone being stopped who had a large set of keys on his person.
- He could not recall if any of his partners switched cars on that date, but stated that it is normal for officers to switch vehicles. However, he stated that if this occurred, it would be noted in his memo book. PO [REDACTED] could not recall how many people were in the

other vehicle or how many people were on the team in general. He did not recall working with any other officers other than the ones he noted in his memo book.

Subject Officer: PO [REDACTED] [REDACTED] (encl. 4S-4X)

- PO [REDACTED] was interviewed at the CCRB on March 27, 2015.
- On June 6, 2014, PO [REDACTED] was assigned to the SNEU team, and was partnered with Sgt. [REDACTED] PO Perez, and PO [REDACTED]. He was dressed in plainclothes and assigned to an unmarked vehicle, RMP #765, which he stated was a black Ford sedan.
- PO [REDACTED] did not recall the incident. He was shown a photo of Mr. [REDACTED] and he did not recognize him. He was given a brief synopsis of the incident, and it did not refresh his memory.
- PO [REDACTED] transported a prisoner to the stationhouse, and arrived at approximately 3:45pm. He did not make any stops between the apprehension of the prisoner and arriving at the stationhouse. He did not recall stopping a male with a large number of keys on a keychain. PO [REDACTED] did not recall any stops that did not lead to an arrest or a summons.
- PO [REDACTED] did not recall if there was another vehicle working with the SNEU team that day, but noted that if he switched cars, it would have been logged in his memo book. However, he stated that because of the number of SNEU officers, there would have been another car that would have either transported the prisoner or transported some of the other officers.

Findings and Recommendations

Potential Issues

- Mr. [REDACTED] stated that he was approached by six officers who arrived in a four door Chevrolet sedan. However, the investigation determined that only four officers were present during the incident, and that although the make of the car remains in question, it was a four door sedan.
- The SNEU team was composed of two teams who were in two separate vehicles. Sgt. [REDACTED] testified that on that date, his partners were PO Perez, PO [REDACTED] and PO [REDACTED]. However, he also testified that it was likely that he switched vehicles at some point during his tour.
- Mr. [REDACTED] provided three different license plate numbers for the vehicle which stopped him. In his initial complaint, he listed the plate number as DXXE661, and in his sworn statement, he provided the number as 6XXE661. The investigation determined that the correct plate number was DXX3661, which Mr. [REDACTED] provided in his complaint with IAB, and that car is assigned to the 25th Precinct.

Explanation of Subject Officer Identification

- Mr. [REDACTED] provided officer descriptions, and stated that there was one black male present. The only black male working on the SNEU team that day was Sgt. [REDACTED]. Sgt. [REDACTED] was partnered with PO [REDACTED], PO Perez, and PO [REDACTED]. Furthermore, Mr. [REDACTED] provided a detailed and accurate description of Sgt. [REDACTED] and indicated that he appeared to be in charge.
- Since none of the officers noted in their memo books that they switched vehicles during their tour, it can be reasonably concluded that the officers originally assigned to Sgt. [REDACTED]'s car were the officers who participated in the stop of Mr. [REDACTED].
- One of the officers Mr. [REDACTED] described was a 6 foot tall Hispanic male who weighs 220 pounds and has brown hair. PO [REDACTED] is a 6'1" tall male who weighs 250 pounds and has brown hair. However, aside from Sgt. [REDACTED] due to vague officer descriptions provided by Mr. [REDACTED] combined with a lack of officer testimony, it remains unclear which officers took what specific actions during the incident.

Allegation A- Abuse of Authority: Sgt. [REDACTED] authorized the stop of [REDACTED]

Allegation B- Abuse of Authority: Sgt. [REDACTED] authorized the search of [REDACTED]

Allegation C- Abuse of Authority: Sgt. [REDACTED] authorized the frisk [REDACTED]

It is disputed whether officers, authorized by Sgt. [REDACTED] stopped, searched, and frisked Mr. [REDACTED].

Mr. [REDACTED] alleged that he was walking in the vicinity of [REDACTED] and E. 125th Street and E. 126th Street in Manhattan when he was stopped, searched, and frisked by plainclothes officers who arrived in an unmarked Chevrolet sedan. An officer entered his pocket to remove his keys, and other officers then frisked his torso and legs. The officers then returned to their vehicle, without arresting or issuing Mr. [REDACTED] a summons.

Sgt. [REDACTED], PO Perez, PO [REDACTED] and PO [REDACTED] all did not recall this occurring, and have nothing related to the incident noted in their memo books. However, despite the officers' lack of recall, the investigation determined, based on Mr. [REDACTED]'s accurate physical description of Sgt. [REDACTED]'s substantially accurate description of the license plate number and corroboration by several officers that they were in the vicinity at the time of the incident, by a preponderance of the evidence that Sgt. [REDACTED] supervised the stop and search of Mr. [REDACTED].

In order for a stop to be justified, an officer must have reasonable suspicion that a person is committing, has committed, or is about to commit a crime. Furthermore, in order to frisk an individual, an officer must reasonably believe the person is armed. To search a person, an officer must have probable cause to believe that that person has committed a crime. People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 1A-1K).

Mr. [REDACTED] provided a detailed description of the incident, accurate descriptions of the officer involved and a seven-digit license plate number with six accurate digits. On the contrary, Sgt. [REDACTED] and three officers on his team - trained to recall and document actions in the course of their duties - neither recalled any details of the incident nor completed required paperwork. However, the fact that all the officers acknowledged working in the area at the time of the

incident minimized any likelihood that Mr. [REDACTED] was mistaken about the officers involved in the incident.

According to Mr. [REDACTED] he was walking while wearing loose fitting clothing with a key chain in his pocket containing approximately 20 keys. In the complete absence of officer testimony, it cannot be assumed that the keys were mistaken for a weapon. Once stopped, Mr. [REDACTED] actions did not give the officers any indication that he was in possession of contraband or that he was armed, therefore any subsequent frisk and search was unwarranted. Mr. [REDACTED] provided an accurate description of Sgt. [REDACTED] and indicated that, based upon his actions and demeanor, he appeared to be the officer in charge. In the absence of any officer testimony to the contrary, Sgt. [REDACTED] as the SNEU supervisor, is accountable for the actions taken by officers in his presence and under his supervision.

The investigation determined by a preponderance of the evidence that the stop, search, and frisk of Mr. [REDACTED] authorized by Sgt. [REDACTED] was unjustified. Therefore, it is recommended that **Allegation A, Allegation B, and Allegation C** be closed as **Substantiated**.

Allegation C- Other Misconduct: Sgt. [REDACTED] failed to prepare a memo book entry.

Allegation D- Other Misconduct: PO Alexander Perez failed to prepare a memo book entry.

Allegation E: Other Misconduct: PO [REDACTED] failed to prepare a memo book entry.

Allegation E: Other Misconduct: PO [REDACTED] failed to prepare a memo book entry.

Allegation F: Sgt. [REDACTED] failed to ensure that a Stop and Frisk report was prepared as required.

The investigation determined by a preponderance of the evidence that Sgt. [REDACTED] PO Perez, PO [REDACTED] and PO [REDACTED] participated in the stop, frisk and search of Mr. [REDACTED] despite the officers' denials. It is undisputed that Sgt. [REDACTED] PO Perez, PO [REDACTED] and PO [REDACTED] failed to document the incident in their memo books.

Officers are required to document in their memo books information pertinent to an assignment, as well as observed or suspected violations of the law and actions taken in regard NYPD Patrol Guide Procedure 212-08 (encl. 1L-1N). Furthermore, according to Patrol Guide Procedure 212-11, an officer must prepare a Stop and Frisk report whenever a civilian is stopped (encl. 1O-1Q).

Because Sgt. [REDACTED] PO Perez, PO [REDACTED] and PO [REDACTED] failed to prepare memo book entries regarding his incident, and because Sgt. [REDACTED] failed to ensure that a Stop and Frisk report was prepared, it is recommended that they be cited for **other misconduct**.

Pod 16

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____

	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Kastner	Team: Squad #6	CCRB Case #: 201407529	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Fri, 07/25/2014 10:00 AM	Location of Incident: East 122nd Street and Lexington Avenue	Precinct: 25	18 Mo. SOL 01/25/2016	EO SOL 1/25/2016	
Date/Time CV Reported Fri, 07/25/2014 10:40 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/25/2014 10:40 AM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
1. [REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT [REDACTED]	01268	940464	025 PCT
2. POM Alex Perez	02964	947336	025 PCT
3. POM [REDACTED]	01513	952324	025 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT [REDACTED]	Abuse of Authority: Sgt. [REDACTED] stopped Ceclia [REDACTED]	A . Substantiated
B . POM [REDACTED]	Abuse of Authority: PO [REDACTED] stopped Ceclia [REDACTED]	B . Substantiated
C . POM [REDACTED]	Abuse of Authority: PO [REDACTED] searched [REDACTED] purse.	C . Substantiated
D . SGT [REDACTED]	Other: Sgt. [REDACTED] failed to prepare a memo book entry as required.	D . Other Misconduct
E . POM Alex Perez	Other: PO Alex Perez failed to prepare a memo book entry as required.	E . Other Misconduct
F . POM [REDACTED]	Other: PO [REDACTED] failed to prepare a stop and frisk report as required.	F . Other Misconduct

Case Summary

At approximately 10:00 a.m. on July 25, 2014, [REDACTED] [REDACTED] was near the corner of East 122nd Street and Lexington Avenue in Manhattan with her niece, [REDACTED] [REDACTED] when PO [REDACTED] [REDACTED] Sgt. [REDACTED] [REDACTED] and PO Alex Perez from the 25th Precinct SNEU team approached her (**Allegations A and B**). PO [REDACTED] asked if Ms. [REDACTED] had contraband and when she said no, PO [REDACTED] searched her purse (**Allegation C**). No contraband was recovered and the officers left without issuing a summons or making an arrest. Sgt. [REDACTED] and PO Perez failed to document this incident in their memo books and PO [REDACTED] failed to prepare a Stop, Question and Frisk Report in regard (**Allegations D, E and F**).

This case was initially assigned to Inv. Kevin O'Connor, and then reassigned to Inv. Hannah Omolade. Upon Inv. Omolade's departure from the agency, it was reassigned to Inv. Laura Kastner on December 11, 2014.

Mediation, Civil and Criminal Histories

Ms. [REDACTED] rejected mediation. No Notice of Claim has been filed with the City of New York in regard to this incident. Ms. [REDACTED] has no record of prior criminal convictions.

Civilian and Officer CCRB Histories

- This is Ms. [REDACTED] first CCRB complaint (encl. C1).
- Sgt. [REDACTED] has been a member of the service for eight years and has one prior substantiated case under case number 200917132 that resulted in instructions for a pepper spray allegation (encl. B1). PO [REDACTED] a two-year-member-of-the-service, and PO Perez, a six-year-member-of-the-service, both have no prior substantiated cases (encl. B2 and B3).

Civilian Statements

Complainant/Victim: [REDACTED] [REDACTED] (encl. E3-E11)

[REDACTED] [REDACTED] was interviewed at the CCRB on August 26, 2014.

- Ms. [REDACTED] and her 17-year-old niece, Tristan [REDACTED] were walking down East 122nd Street and Lexington Avenue in Manhattan.
- Neither Ms. [REDACTED] nor Ms. [REDACTED] stopped to talk to anyone as they walked.
- After a couple of minutes, a black four door sedan with tinted windows pulled up alongside Ms. [REDACTED]. Three plainclothed officers exited the car and surrounded her.
- Ms. [REDACTED] yelled out to Ms. [REDACTED] who was walking ahead of her, to come back and the officers told Ms. [REDACTED] to stay back.
- PO [REDACTED] identified via investigation, asked what was in Ms. [REDACTED] purse and said if she had done nothing wrong, the officers should be able to look inside her purse.
- Ms. [REDACTED] became upset and handed PO [REDACTED] her purse.
- PO [REDACTED] searched through Ms. [REDACTED] purse and removed her wallet, a religious item (encl.E7) and feminine products.
- PO [REDACTED] placed Ms. [REDACTED] purse on top of the patrol car, opened Ms. [REDACTED] wallet and searched through the wallet.
- After searching through her purse for approximately ten minutes, PO [REDACTED] returned it to Ms. [REDACTED] and the officers walked away.
- They each provided their shield number upon Ms. [REDACTED] request.
- The officers subsequently stopped two men down the block, but Ms. [REDACTED] did not see any more of that interaction.
- Ms. [REDACTED] was not issued a summons or arrested.

Witness: [REDACTED] [REDACTED] (encl. E12)

On December 24, 2014, [REDACTED] Colman provided a phone statement, which was consistent with Ms. [REDACTED] statement with the following differences noted below:

- Ms. Colman was walking ahead of Ms. [REDACTED] when she heard Ms. [REDACTED] call her name.
- Ms. Colman turned around and saw that Ms. [REDACTED] was standing with three officers.
- Ms. Colman approached and was told to stay back, so she took one step back and observed the remainder of the incident from that position without an obstructed view.
- PO [REDACTED] already had Ms. [REDACTED] purse and was looking through it. He removed tissues, a religious object, and Ms. [REDACTED] wallet, which he looked through.
- Ms. [REDACTED] was crying and said the officers had no right to look through her purse.
- After searching the purse for less than one minute, PO [REDACTED] returned it to Ms. Colman.
- The entire incident lasted approximately five minutes.

NYPD Statements

Subject Officer: PO [REDACTED] [REDACTED] (encl. F7-F11)

PO [REDACTED] was interviewed at the CCRB on December 9, 2014 and provided the following factors that resulted in the stop of Ms. [REDACTED]

- PO [REDACTED] observed Ms. [REDACTED] for approximately two minutes, standing with a man on the corner of East 122nd Street and Lexington Avenue, a drug prone location in which a lot of complaints derive.
- PO [REDACTED] was in a police vehicle approximately 10 feet away from Ms. [REDACTED] who was on the sidewalk at the time of PO [REDACTED] observations.
- Ms. [REDACTED] and the man were huddled together and the man appeared to hand her a multicolored object, the shape of which PO [REDACTED] could not discern.
- PO [REDACTED] suspected the object to be drugs and noted that subjects will usually pack narcotics into a pill bottle, though he never indicated observing a pill bottle.
- Ms. [REDACTED] placed the object in her purse and kept it close to her hand.
- PO [REDACTED] did not observe Ms. [REDACTED] hand the man anything in exchange for the object.
- Ms. [REDACTED] kept reaching into her purse and PO [REDACTED] believed that she could have been inspecting the product, which he said is typical in drug exchanges.
- PO [REDACTED] did not know whether the object was contraband or a weapon. When questioned regarding what type of weapon he believed the object Ms. [REDACTED] took from the man and put in her purse to be, PO [REDACTED] said, "It could have been a million things. I couldn't tell you. It could have been a knife. It could have been anything."
- Ms. [REDACTED] and the man spoke for a little while before separating.
- The officers approached Ms. [REDACTED] due to her interaction with the man and the fact that the area was a drug prone location.
- PO [REDACTED] asked Ms. [REDACTED] who the man she was speaking with was and Ms. [REDACTED] told him not to worry about it.
- PO [REDACTED] asked if Ms. [REDACTED] had contraband on her, which Ms. [REDACTED] denied.
- Although PO [REDACTED] was satisfied with Ms. [REDACTED] verbal denial, Ms. [REDACTED] insisted that the officers check her bag and offered her purse for inspection.
- PO [REDACTED] did not ask Ms. [REDACTED] to see what was in her purse prior to this.
- Nothing was recovered from inside the purse.
- PO [REDACTED] prepared a Stop, Question and Frisk Report at the stationhouse.

Subject Officer: SGT. [REDACTED] [REDACTED] (encl. F12-F17)

Sgt. [REDACTED] was interviewed at the CCRB on December 9, 2014 and provided the following factors that resulted in the stop of Ms. [REDACTED]

- PO [REDACTED] wanted to stop Ms. [REDACTED]. At the time of his interview, Sgt. [REDACTED] did not know the reason for the stop.
- Sgt. [REDACTED] did not know what Ms. [REDACTED] was doing or if she was with anyone. He did not see any other female civilians in the area.
- All three officers approached Ms. [REDACTED]
- Sgt. [REDACTED] could not recall any statements made by PO [REDACTED]
- Ms. [REDACTED] handed her purse to PO [REDACTED]. Sgt. [REDACTED] could not recall if she offered her purse to PO [REDACTED] or if PO [REDACTED] asked to see it.
- PO [REDACTED] took the purse and looked through it, Sgt. [REDACTED] believed with negative results.
- The purse was returned to Ms. [REDACTED]
- Sgt. [REDACTED] believed that a Stop, Question Frisk report was prepared at the stationhouse.
- Sgt. [REDACTED] did not prepare any memo book entries regarding this incident.

Subject Officer: PO ALEX PEREZ (encl. F1-F6)

PO Perez was interviewed at the CCRB on November 18, 2014, but he did not recall this incident and had no memo book entries in regard.

Findings and Recommendations

Explanation of Subject Officer Identification

Since Sgt. [REDACTED] was the supervising officer on the scene, Allegation A has been pled to him. Additionally, because officer statements revealed that PO [REDACTED] was the officer who stopped and searched Ms. [REDACTED] Allegations B and C have been pled to him.

Allegation A: Abuse of Authority: Sgt. [REDACTED] [REDACTED] stopped Ceclia [REDACTED]

Allegation B: Abuse of Authority: PO [REDACTED] [REDACTED] stopped Ceclia [REDACTED]

A preponderance of evidence (civilian and officer statements) indicates that Ms. [REDACTED] was stopped by PO [REDACTED] who was being supervised by Sgt. [REDACTED] at the time of the stop.

An officer may stop an individual when there is reasonable suspicion to believe that individual has committed, is committing, or is about to commit a crime. People v. DeBour, 40 N.Y.2d 210 (1976) (encl. A1-A11). Innocuous behavior, albeit in a high crime area, does not generate a founded or reasonable suspicion that criminality is afoot. People v. Hampton, 200 A.D.2d 466 (1994) (encl. A12-A14).

PO [REDACTED] lacked the reasonable suspicion necessary to stop Ms. [REDACTED]. Despite Ms. [REDACTED] denial, by PO [REDACTED] own admission all he saw was Ms. [REDACTED] speak to an unidentified man who appeared to hand her an object, that Ms. [REDACTED] placed the object in her purse and that she kept reaching into her purse afterwards. Despite Ms. [REDACTED] seemingly innocuous observed behavior, PO [REDACTED] initially said he suspected the multicolored object, the shape of which he could not discern, was drugs, and that Ms. [REDACTED] repeated motion of reaching into her purse could have been her inspecting the alleged drugs after purchasing them. Yet, PO [REDACTED] never saw an exchange of objects and subsequently acknowledged that he had no idea what the one object he did see was. In his own words, "It could have been a million things...It could have been a knife. It could have been anything."

The investigation determined that PO [REDACTED] alleged observations of Ms. [REDACTED] even in a high crime area did not sufficiently provide him with reasonable suspicion to stop her. It is therefore recommended that **Allegations A and B** be closed as **substantiated**.

Allegation C: Abuse of Authority: PO [REDACTED] searched [REDACTED] purse.
A preponderance of evidence (civilian and officer statements) indicates that PO [REDACTED] searched Ms. [REDACTED] purse and that no contraband or narcotics were found.

An officer may search an individual when there is probable cause to believe that individual has committed a crime. People v. Hill, 569 N.Y.S.2d 227 (1991 – 4th Dept.) (encl. A15-A17). When, during the course of a police encounter, an officer asks accusatory questions that focus on the criminality of a person, the encounter has become a common-law inquiry that must be supported by founded suspicion that criminality is afoot. Additionally, a request to search a bag is intrusive and intimidating and would cause a reasonable person to believe that they were suspected of criminal conduct. People v. Hollman, 79 N.Y.2d 181 (1992) (encl. A18-A25). Consent to search is voluntary when it is an unequivocal product of an essentially free and unconstrained choice. Voluntariness is incompatible with official coercion, actual or implicit, overt or subtle. The voluntariness of the consent is to be evaluated by the totality of the circumstances. People v. Green, 930 N.Y.S.2d 176 (2011 – Sup. Ct. Bx Cty) (encl. A26-A29).

While a preponderance of evidence indicates that PO [REDACTED] searched Ms. [REDACTED] purse, the circumstances of that search are in dispute. Ms. [REDACTED] alleged that PO [REDACTED] asked to look inside the purse and if that is indeed what occurred, for the same reasons detailed above (see Allegations A and B), PO [REDACTED] lacked founded suspicion of criminality and could not rightly initiate a common-law inquiry. Therefore, he was unjustified in asking to search and in subsequently searching Ms. [REDACTED] purse.

Conversely, PO [REDACTED] said that after he questioned Ms. [REDACTED] about who the man she was allegedly speaking with was and about whether she had contraband on her, Ms. [REDACTED] insisted that her purse be searched although PO [REDACTED] denied asking for permission to search the purse, and that PO [REDACTED] complied with Ms. [REDACTED] request. If this is indeed what occurred and even if PO [REDACTED] had the necessary founded suspicion of criminality, the intimidating statements made by the officers during the course of the encounter puts into question the voluntariness of Ms. [REDACTED] alleged consent.

The investigation determined that in both scenarios, PO [REDACTED] would have been unjustified in searching Ms. [REDACTED] purse. It is therefore recommended that **Allegation C** be closed as **substantiated**.

Allegation D: Other Misconduct: Sgt. [REDACTED] failed to prepare a memo book entry as required.

Allegation E: Other Misconduct: PO Alex Perez failed to prepare a memo book entry as required.

The investigation determined that Sgt. [REDACTED] and PO Perez approached Ms. [REDACTED] Neither officer documented this incident in their memo book (encl. F12-F14 and F1-F3).

Officers are required to document in their memo books information pertinent to an assignment, as well as observed/suspected violations of the law and actions taken in regard. NYPD Patrol Guide, Procedure 212-08 (encl. A30-A32).

Given that Sgt. [REDACTED] and PO Perez did not comply with the above referenced procedure, it is recommended that they be cited for **other misconduct**.

Allegation F: Other Misconduct: PO [REDACTED] failed to prepare a stop and frisk report as required.

PO [REDACTED] confirmed that he stopped Ms. [REDACTED] and searched her purse.

Officers are required to prepare a Stop, Question and Frisk Report for each individual whom they stop and frisk. NYPD Patrol Guide, Procedure 212-11 (encl. A33-A35).

Though PO [REDACTED] stated that he prepared a Stop, Question and Frisk Report for Ms. [REDACTED] the Stop and Frisk Log indicates that he only prepared one such report on the date of this incident (encl. G19). That report was prepared in regard to a 55-year-old black man who was stopped at the intersection of 3rd Avenue and East 122nd Street in Manhattan on suspicion of criminal possession of a weapon (encl. G20-G21). Attempts made to the CCRB Monitoring Analysis Section and the CCRB-IAB Liaison's Unit did not return any reports documenting this incident. Given that PO [REDACTED] failed to comply with the above-referenced procedure, it is recommended that he be cited for **other misconduct**.

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date